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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/022,978 02/24/93 GROVE

R JLE-001

EXAMINER

SYRES, A

ART UNIT PAPER NUMBER

10

3305

DATE MAILED:

10/17/94

F3M1/1017

WOLF, GREENFIELD & SACKS, P.C.
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BOSTON, MA 02210

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 8/22/94 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|-------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 7-16 are pending in the application.
Of the above, claims 7-16 are withdrawn from consideration.
2. ☒ Claims 1-6 have been cancelled.
3. ☐ Claims 7-16 are allowed.
4. ☒ Claims 7-16 are rejected.
5. ☐ Claims 7-16 are objected to.
6. ☐ Claims 7-16 are subject to restriction or election requirement.
7. ☒ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on . Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed , has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. ; filed on .
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

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The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 7-16 are rejected under 35 U.S.C. § 103 as being unpatentable over Tan in view of Itzkan. The Tan reference discloses a laser treatment method for removing pigmentations, lesions and abnormalities from the skin by aiming a laser and delivering laser pulses. The Itzkan reference discloses a system for treating the same types of cutaneous vascular lesions in which psoriasis can also be treated (see column 5, lines 50-56). The Itzkan reference also teaches that the use of ultrashort pulses such as those disclosed by Tan can cause vessels to burst and spew forth blood (see column 3, lines 31-62) and that longer duration pulses (1 millisecond, for example) can necrose the abnormalities without causing the blood to spew forth. In view of this teaching, it would have been obvious to one skilled in the art to apply longer duration pulses in the Tan method to prevent the bursting of blood vessels.

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Applicants have argued that Tan neither shows nor suggests in any way the destruction of blood vessels by use of laser energy in the infrared range and the operation in this wavelength range with pulses of several orders of magnitude longer than those disclosed by Tan. The Tan reference discloses the use of laser energy in the infrared range (i.e., Tan discloses a 600-1100 nm. wavelength range), and, for the reasons discussed above, Itzkan further teaches the use of longer pulses. Applicants also argue that Itzkan reaches operation outside of the claimed wavelength range. The Itzkan reference teaches that a range of wavelengths from shorter than approximately 600 nm. and extending into the ultraviolet can be used and that the specific wavelength selected depends on the relative effects of scattering, the presence of chromophores and the availability of light sources. Thus, the Tan and Itzkan references teach the claimed invention for the reasons discussed above.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD

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FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS
FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to A. Sykes whose telephone number is (703) 308-2713.

ads
October 11, 1994

Angela D. Sykes

ANGELA D. SYKES
PRIMARY EXAMINER
GROUP 3300